



Secretary's Order 02-2021 – To Withdraw Secretary's Order 10-2020, Statement of Policy Regarding Independence of Advisory Committee Members

1. **Purpose.** To withdraw Secretary's Order 10-2020, Statement of Policy Regarding Independence of Advisory Committee Members.

2. **Authorities and Directives Affected.**

A. Authorities. This Order is issued pursuant to the following authorities:

1. 29 U.S.C. 551 *et seq.*;
2. 5 U.S.C. 301–02; and
3. 5 U.S.C. app. 2, 1–15.

B. Directives Affected. Secretary's Order 10-2020 is hereby withdrawn.

3. **Definitions.**

“Committee” refers to any advisory committee, committee, board, task force, or working group to which the Secretary or the Secretary's designee appoints individuals subject to the Federal Advisory Committee Act and their subcommittees. This Order does not apply to internal committees, boards, task forces, or working groups, or to purely interagency committees, boards, task forces, or working groups.

4. **Background.**

The stated purpose of Secretary's Order 10-2020 was to strengthen the quality and reliability of advice provided by advisory committees to the Department of Labor (DOL), by identifying factors to be used in selecting committee members that will increase transparency in the disbursement of taxpayer dollars, enhance public confidence in advisory committees, and promote efficiency in the selection of candidates to serve on advisory committees. The formation of Committees and the selection of their membership are governed in detail by the Department of Labor Manual Series. Secretary's Order 10-2020 established new, additional procedures for the evaluation of Committee members by requiring additional consideration of a candidate's financial

interests in DOL grants and contracts, and requiring agencies to collect a candidate attestation, the Individual's Self-Certification of Financial Independence, from nominees. If the candidate was unable to self-certify, the agency head could review the circumstances to determine whether the candidate was sufficiently financially independent from (*i.e.*, not so directly related to) DOL programs making grants or contract disbursements. These requirements were imposed in addition to the rigorous candidate background checks agencies perform routinely per DOL policy, although there had been no demonstrated necessity for the additional attestations or separate analyses Secretary's Order 10-2020 requires. Furthermore, Secretary's Order 10-2020 does not apply to all DOL advisory committee members as it provides for specific and qualified exceptions, and allows agencies to make case-by-case, independent determinations as to whether a candidate is sufficiently financially independent if a candidate is unable to self-certify, rendering its application inconsistent and arbitrary. As such, Secretary's Order 10-2020 has created superfluous procedures with no demonstrated value justifying the additional administrative burden. While the Department has a strong interest in obtaining expert advice from its Committees, the Department has determined these new procedures on balance to be unnecessary. Accordingly, this Order rescinds Secretary's Order 10-2020. Appointments previously made under Secretary's Order 10-2020 are unaffected by this Order.

5. Responsibilities.

- A. The Deputy Secretary is responsible for issuing written guidance, as necessary, to implement this Order.
 - B. The Committee Management Officer, as required by § 8(b) of the Federal Advisory Committee Act, is responsible for coordinating all Federal Advisory Committee activities with DOL agencies.
 - C. The Assistant Secretary for Administration and Management, in consultation with the Deputy Secretary, Solicitor of Labor, and the Committee Management Officer, is responsible for maintaining internal Department guidance related to the selection and appointment of members to Committees.
 - D. The Solicitor of Labor is responsible for providing legal advice to the Department on all matters arising in the implementation and administration of this Order.
7. **Privacy.** This Order is subject to the applicable laws, regulations, and procedures concerning the privacy of applicants to Committees.
8. **Controlling Law; Administrative Matters.** The requirements of this Order are intended to be general in nature, and accordingly will be construed and implemented consistent with more specific requirements of any statute, Executive Order, or other law governing the composition of a particular Committee. If a conflict arises, the specific statute, Executive Order, or other law will govern.
9. **Redelegation of Authority.** Except as otherwise provided by law, all authorities delegated in this Order may be redelegated to serve the purposes of this Order.
10. **Effective Date.** This Order is effective immediately.

Dated: July 16, 2021.

Signed in Washington, D.C., this 16th day of July, 2021.

Martin J. Walsh,

Secretary of Labor.

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